



California Regional Water Quality Control Board

Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Linda S. Adams
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

September 8, 2009

Mr. Mark S. Norris
Assistant Public Works Director
City of Oxnard
6001 South Perkins Road
Oxnard, CA 93033-9047

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CLAIM NO. 7008 1830 0004 3360 5460

RESPONSE TO REQUEST FOR ALLEGED VIOLATION REVIEW – CITY OF OXNARD, REDWOOD TRUNK SEWER PROJECT, PIPELINE ROUTE NO. 1, OXNARD, CALIFORNIA (ORDER NO. R4-2003-0111, NPDES PERMIT NO. CAG994004, CI NO. 8627)

Dear Mr. Norris:

Thank you for your letter dated December 1, 2008, meeting with Regional Board staff on February 4, 2009 and subsequent letter dated February 13, 2009, all responding to the November 10, 2008 Settlement Offer No. R4-2008-0108-M (Settlement Offer), which assessed mandatory minimum penalties (MMPs) against to City of Oxnard (Permittee) for violations of effluent limitations and late report violations. The Permittee provided additional information to Regional Board staff contesting certain effluent limit and late report violations noted in the Settlement Offer. This letter addresses your comments in this regard.

Late Report Violations

The Regional Board has determined, based on proof of delivery information provided by the Permittee, that the 1st and 2nd Quarter 2007 and 2nd Quarter 2008 self-monitoring reports were received by the Regional Board in a timely manner. This determination has been verified with Regional Board staff and the thirty-five (35) invalid violations will be expunged from the CIWQS database and Exhibit "A" of the Settlement Offer has been amended to reflect this change.

Effluent Limit Violations

Regional Board staff has reviewed the Permittee's February 13, 2009 submittal contesting the copper limitation in its enrollment under the general NPDES permit for its discharges from January 2006 through August 2007 from the above referenced project.

In its submittal, the Permittee pointed out that the discharge, during the period cited in the Settlement Offer, was to the J Street storm drain, which is not a saltwater waterbody. In addition, the discharge did not flow directly to the Pacific Ocean, but became part of the wetland system since the berm separating the storm drain from the Pacific Ocean remained intact for the duration of the discharge. Before the flow could get into the Pacific Ocean it had to percolate through intervening sands. Therefore, the effluent limits for the discharge should have been freshwater based and not saltwater based as stated on the general permit authorization fact sheet. Regional Board staff concurs with the findings referenced above. Also, because hardness data was not provided for the discharge the most stringent freshwater based

California Environmental Protection Agency



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

copper limitations of 20.8 µg/L Daily Maximum and 10.4 µg/L Monthly Average should be used to determine compliance for the period that you discharged.

Therefore, Regional Board staff has amended Exhibit "A" of the Settlement Offer to reflect the change in permit limitations. As a result, ten (10) effluent limit violations of copper have been dismissed and expunged from the CIWQS database. However, seven (7) effluent limit violations of copper and one (1) effluent limit violation for turbidity remain.

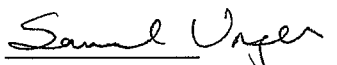
You are hereby notified that, based on your December 1, 2007 and February 13, 2008 submittals to the Regional Board, the thirty-five (35) late report violations and ten (10) copper effluent limit violations are hereby rescinded. However, eight (8) effluent limit violations noted in the September 15, 2008 Settlement Offer No. R4-2008-0075-M Notice of Violation (NOV) attached as amended Exhibit "A" remain. Accordingly, the new settlement amount is \$15,000 and the liability shall be paid by cashiers or certified check for \$15,000 made out to the "State Water Pollution Cleanup and Abatement Account". Failure to pay the full penalty within the required time period may subject the Permittee to further liability.

Since the Permittee requested a review of this violation, the Regional Board has established new deadlines. If you intend to participate in the Expedited Payment Program, you must sign and return the previously sent Acceptance of Conditional Resolution and Waiver of Right to Hearing form by **October 8, 2009**. By signing the Acceptance and Waiver, the City of Oxnard agrees to pay the penalty as indicated on the amended Exhibit A – Notice of Violation and waives the right to a hearing.

If you do not elect to sign the Acceptance and Waiver, you will be contacted regarding formal enforcement action that will be initiated with regard to the contested violation.

If you have questions regarding this matter, please contact Mr. Hugh Marley at (213) 620-6375 or Mr. Russ Colby at (213) 620-6373.

Sincerely,


Samuel Unger, P.E.
Assistant Executive Officer

Enclosures:

Amended Exhibit "A" - Notice of Violation

cc: Mayumi Okamoto, Office of Enforcement, State Water Resources Control Board

Settlement Offer No. R4-2008-0108-M
CI No. 8627, NPDES Permit No. CAG994004

City of Oxnard
Settlement Offer No. R4-2008-0108-M
NPDES Permit No. CAG994004

**ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT
TO HEARING; (proposed) ORDER**

By signing and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Los Angeles Regional Water Quality Control Board (Regional Board), City of Oxnard (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Board to dispute the allegations of violations described in the Notice of Violation (NOV), which is attached hereto as Exhibit "A" and incorporated by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Regional Board to assert jurisdiction over the alleged violations through its Executive Officer. The Permittee agrees to pay the penalties required by California Water Code section 13385, in the sum of \$15,000 (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code sections 13385 that otherwise might be assessed for the violations described in the NOV. The Permittee understands that this Acceptance and Waiver waives the Permittee's right to contest the allegations in the NOV and the amount of civil liability for such violations.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NOV.

Upon execution by the Permittee, the completed Acceptance and Waiver shall be returned to:

Russ Colby, Enforcement Unit
Expedited Payment Program
Regional Water Quality Control Board, Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, California 90013

The Permittee understands that the federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action addressing NPDES permit violations. Accordingly, this Acceptance and Waiver, prior to execution by the Regional Board Executive Officer, will be published as required by the law for public comment.

If no comments are received within the notice period that cause the Regional Board Executive Officer to question the Expedited Payment Amount, the Regional Board Executive Officer will execute the Acceptance and Waiver.

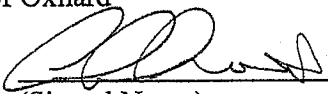
Settlement Offer No. R4-2008-0108-M
CI No. 8627, NPDES Permit No. CAG994004

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Board to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, the Permittee will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee further understands that once the Acceptance and Waiver is executed by the Regional Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13385(n)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the \$15,000 liability shall be paid by a cashiers or certified check made out to the "State Water Pollution Cleanup and Abatement Account" The payment must be submitted to the Regional Board no later than ten (10) calendar days after the date the Permittee receives written notice that the Regional Board Executive Officer has executed this Acceptance and Waiver.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

City of Oxnard

By:  For MSW
(Signed Name)

08 Oct 2009
(Date)

Mark S. Norris
(Printed or typed name)

Assistant Public Works Director
(Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: _____

By: _____
Tracy J. Egoscue
Executive Officer

AMENDED EXHIBIT "A" - NOTICE OF VIOLATION
Effluent Limit Violations

Date	Monitoring Period	Violation Type	Parameter	Reported Value	Permit Limit	Units	Pollutant Category	% Exceeded	Serious/ Chronic	Water Code Section 13385	Penalty
01/17/06	1st Quarter 2006	Monthly Average	Cu	4	10.4	ug/L	2	-62%	NA	(i)1	Dismissed
02/28/06	1st Quarter 2006	Daily Maximum	Cu	11	20.8	ug/L	2	-47%	NA	(i)1	Dismissed
10/25/06	4th Quarter 2006	Daily Maximum	Cu	19	20.8	ug/L	2	-9%	NA	(i)1	Dismissed
11/28/06	4th Quarter 2006	Daily Maximum	Cu	8	20.8	ug/L	2	-62%	NA	(i)1	Dismissed
11/30/06	4th Quarter 2006	Monthly Average	Cu	4.5	10.4	ug/L	2	-57%	NA	(i)1	Dismissed
12/06/06	4th Quarter 2006	Daily Maximum	Cu	15	20.8	ug/L	2	-28%	NA	(i)1	Dismissed
12/12/06	4th Quarter 2006	Daily Maximum	Cu	15	20.8	ug/L	2	-28%	NA	(i)1	Dismissed
12/26/06	4th Quarter 2006	Daily Maximum	Cu	10	20.8	ug/L	2	-52%	NA	(i)1	Dismissed
01/02/07	1st Quarter 2007	Daily Maximum	Cu	16	20.8	ug/L	2	-23%	NA	(i)1	Dismissed
01/10/07	1st Quarter 2007	Daily Maximum	Cu	7	20.8	ug/L	2	-66%	NA	(i)1	Dismissed
02/28/06	1st Quarter 2006	Monthly Average	Cu	11	10.4	ug/L	2	6%	Chronic	(i)1	\$0
04/20/06	2nd Quarter 2006	Daily Maximum	Cu	51	20.8	ug/L	2	145%	Serious	(h)1	\$3,000
04/20/06	2nd Quarter 2006	Monthly Average	Cu	51	10.4	ug/L	2	390%	Serious	(h)1	\$3,000
10/25/06	4th Quarter 2006	Monthly Average	Cu	19	10.4	ug/L	2	83%	Serious	(h)1	\$3,000
12/31/06	4th Quarter 2006	Monthly Average	Cu	11	10.4	ug/L	2	6%	Chronic	(i)1	\$0
01/16/07	1st Quarter 2007	Daily Maximum	Cu	54	20.8	ug/L	2	160%	Serious	(h)1	\$3,000
01/31/07	1st Quarter 2007	Monthly Average	Cu	26	10.4	ug/L	2	150%	Serious	(h)1	\$3,000
08/08/07	3rd Quarter 2007	Monthly Average	Turbidity	74	50	NTU	NA	NA	Chronic	(i)1	\$0
										Total	\$15,000

AMENDED EXHIBIT "A" - NOTICE OF VIOLATION
Late Reporting Violations

Reporting Period	Violation Type	Due Date	Received Date	Days Late	# of Complete 30-Day Periods	Serious/ Chronic	Water Code Section 13385	Amount Per 30-Day Period	Penalty
1st Quarter 2007	Late Report	05/15/2007	05/08/2007	0	0	NA	(h)(1)	\$0	Dismissed
2nd Quarter 2007	Late Report	08/15/2007	08/01/2007	0	0	NA	(h)(1)	\$0	Dismissed
2nd Quarter 2008	Late Report	08/15/2008	07/24/2008	0	0	NA	(h)(1)	\$0	Dismissed
							Total		\$0
							Settlement Total		\$15,000